

Service Date: May 16, 1994

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

IN THE MATTER of the Application )  
of Midvale Water Service for ) UTILITY DIVISION  
Authority to Increase Rates and ) DOCKET NO. 93.12.64  
Charges for Water Service in its ) ORDER NO. 5785  
Eureka, Montana Service Area. )

INTERIM RATE ORDER

FINDINGS OF FACT

1. On March 10, 1994 Midvale Water Service (Applicant or MWS) filed an application amending its application filed with the Montana Public Service Commission (Commission) on December 16, 1993. MWS requested authority to increase water rates and charges to its Eureka, Montana customers on a permanent basis by approximately 220 percent. This rate increase would result in a revenue increase of approximately \$65,193.

2. With the request for a permanent rate increase, MWS also applied for an interim increase in rates of 136 percent, a revenue increase of approximately \$40,352 or 62 percent of the proposed permanent increase. MWS requested that the Commission authorize rates sufficient to recover its increased costs of providing service.

3. MWS provides water service in an area adjacent to the Town of Eureka, Montana. To resolve a complaint filed by the Montana Department of Health and Environmental Sciences, MWS entered into a Consent Decree which required MWS to bring its

entire system up to standards detailed in the Ten States Water Compact by July 1, 1988. MWS was required to undertake a significant reconstruction program of the water system. To fund construction MWS negotiated a loan with the Montana Department of Natural Resources (DNRC) Water Development Program. The DNRC loan imposed conditions on MWS similar to DNRC requirements for its municipal utility loans. One condition is that the principal and interest payment must be recovered as an operating expense. Since the DNRC loan is reflected as an operating expense for rate making purposes, MWS has no investment in its 1988 vintage utility plant. Therefore, the Commission cannot afford this privately owned utility the generally accepted rate base treatment to determine reasonable rates.

4. The Commission requires a clear showing that the petitioning utility is suffering an obvious income deficiency before the Commission will authorize interim rate relief. Generally, reference to the adjustments and rate of return approved in the most recent general rate order of the petitioning utility provides an appropriate means to measure financial performance.

5. The Commission does not regulate MWS on a rate of return basis; therefore, the Commission cannot use the most recent rate decision to determine the financial performance of MOOS. The Commission cannot compare the actual return versus the authorized rate of return to determine financial performance.

6. Applicant has submitted financial information in support of the request for increased rates which shows that during the 1993 test year, MWS generated a net profit of \$260 on a cash basis. Using the accrual accounting method, the financial information shows that MWS generated a net loss of

\$20,350. The operating loss determined under the accrual method of accounting is the most indicative of MWS financial position.

7. Included in the accrual financial statements is a \$981 expense for 1992 taxes. This expense may not be recoverable through rates and therefore, should be excluded from consideration in determining interim rate relief. The Commission's examination of the 1993 financial statements did not uncover any other extraordinary expense items.

8. Excluding the 1992 tax expense from the operating statement results in an adjusted net operating loss of \$19,369 for the year ended 12/31/93. The utility has sustained an operating loss during the test year which constitutes an obvious income deficiency. Deferring rate relief until a final order can be issued may adversely affect the utility's financial condition. Further, the Commission finds that under current rate making standards the utility may be entitled to rate relief at the time a final order is issued in this proceeding.

9. Because MWS has sustained an operating loss, the Commission finds that MWS is entitled to interim rate relief. For interim purposes the Applicant requested an annual revenue increase of approximately \$40,352. Included in the request for interim rate relief are pro forma adjustments that, at the time of the hearing, may be contested. To avoid prejudging any issues surrounding pro forma adjustments in this Docket, the Commission will rely on the Applicant's historic loss only and not consider pro forma adjustments as a basis for determining interim rate relief. The Commission finds the Applicant is entitled to interim rate relief in the amount of \$19,369.

10. The Applicant shall generate the increased annual revenue authorized in this order by increasing all rates and charges by a uniform percentage.

#### CONCLUSIONS OF LAW

1. Midvale Water Service is a public utility furnishing water service to customers in the Eureka, Montana area, and is subject to the supervision, regulation and control of this Commission pursuant to §69-3-102, MCA.

2. Section 69-3-304, MCA, provides in part, "The Commission may in its discretion, temporarily approve increases pending a hearing or final decision."

3. The Commission concludes that the grant of an interim rate increase is just, reasonable and within the discretion granted by §69-3-304, MCA.

4. The increase granted herein is subject to rebate should the final order in this Docket determine that a lesser increase is warranted. §69-3-304, MCA.

#### ORDER

THEREFORE THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. Midvale Water Service is hereby granted authority to implement on an interim basis increased rates for its Eureka, Montana customers designed to generate additional annual revenues in the amount of \$19,369.

2. Midvale Water Service is to file revised tariff schedules spreading the increased revenues as a uniform percentage increase to all services.

3. The interim relief granted in this Order is to be effective upon Commission approval of the revised tariff schedules.

DONE IN OPEN SESSION THIS 9th day of May, 1994 by a vote of  
3 -2.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman  
(Voting to Dissent-Attached)

DAVE FISHER, Commissioner

NANCY MCCAFFREE, Commissioner  
(Voting to Dissent-Attached)

DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

DISSENT OF COMMISSIONER ROWE  
DOCKET NO. 93.12.64, ORDER NO. 5785

The Commission approved a 65.36 percent increase in water rates, without hearing from the customers who will have to pay that rate. That is wrong.

Interim rate relief is granted in order to avoid undue financial harm to the utility. When after a hearing the final order results in an amount smaller than was granted on an interim basis, the utility is ordered to pay its customers a refund.

In this case, the utility requested interim rate relief of 136 percent. The Commission staff analyzed the request and recommended the smaller amount approved by the Commission majority. The staff closely scrutinized the utility's 1993 operating expenses, which showed a \$19,369 net loss. Most of those expenses reflected a loan to bring Midvale Water Service up to state and federal standards. So far, so good. I do not dispute the need for an interim of some size. However, I am unable to approve on a "temporary" basis a rate increase for residential customers from \$22.65 to over \$37 or for business customers from \$29.75 to nearly \$50 without first hearing from the customers.

Section 69-3 -304, Montana Code Annotated, does not require hearings on temporary rate increases, providing rebates instead. Neither the Montana Consumer Counsel nor individual ratepayers are well-situated to participate before cases reach the final hearing stage. Therefore, in addition to reviewing the financial information, the Commission needs to use common sense in recognizing the difference between "enough" and "too much."

Looking forward, customers of Midvale and of other small water companies (whose rates are already often higher than large companies) need to recognize that rates will go up even more. Providing adequate water service (pressure, volume, reliability and quality) is expensive. Small systems must spread those costs over small customer bases. From the customer's perspective, the problem is compounded when a small system serves a less-affluent rural area.

Partial solutions include making sure water quality and other regulations are not unduly burdensome and do produce customer benefits; low interest loans and grants to achieve compliance; shared facilities and coordination between small water companies to achieve economies of scale; merger of small systems; and support for water users' associations. I encourage Midvale customers to think through these and other possibilities, and to participate constructively in the public hearing which will proceed any final order in this case.

RESPECTFULLY SUBMITTED this 12th day of May, 1994.

BOB ROWE  
Vice Chair

I concur in Commissioner Rowe's dissent.

NANCY MCCAFFREE  
Commissioner